

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.25007 of 2019**

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1. Vinod Kumar Singh, Son of Late Rajdev Singh, Resident of Village and P.O.- Chaura, P.S.- Narhi, District- Baliya, Uttar Pradesh, Pin Code-277502.
2. Gopal Singh, Son of Late Late Darbari Singh, Resident of Village- Chandaulikhudra, P.O.- Sadalpur, P.S.- Alinagar, District- Chandauli (U.P.), Pin Code-232101.
3. Pramod Kumar Singh, Son of Raja Ram Singh, Resident of Village and P.O.- Kowil, P.S.- Islampur, District- Nalanda, Pin Code-801303
4. Mahakant Jha, Son of Late Harideo Singh, Resident of Village and P.O.- Simari Bhaya Arerhat, P.S.- Viski, District- Madhubani, Pin Code-847325
5. Chandra Bhushan Kumar Singh, Son of Late Prabhunath Singh, Resident of Village- Bajitpur, P.O.- Gopalpur, P.S.- Nayagaon, District-Saran, Pin Code-841217.
6. Santosh Kumar Singh, Son of Late Parshuram Singh, Resident of Village- Dewariya, P.O.- Bhatti, P.S.- Mohaniya, District- Kaimur (Bhabhua), Pin Code-821109
7. Rajendra Prasad Singh, Son of Late Suneshwar Singh, Resident of Village- Bagsanda, P.O.- Kumariya, P.S.- Tarari, District- Bhojpur (Ara), Pin Code-802209.
8. Ghanshyam Narayan Singh, Son of Late Harshit Narayan Singh, Resident of Village and P.O.- Dachhinichak, P.S.- Athmal Gola, District- Patna, Pin Code-803211
9. Arun Kumar, Son of Hari Prasad, Resident of Village- Begamaki Hawelil, P.O.- Jhauganj, P.S.- Khajkela, District-Patna, Pin Code-800008
10. Ramashish Rai, Son of Late Prashidh Rai Resident of Village-Hariyo, P.O. and P.S.-Akar Nagar, District-Bhagalpur, Pin Code-812001
11. Bhirgunath Singh, Son of Late Sabhapati Singh, Resident of Village and P.O.- Kumna, P.S.- Kopa, District- Chapra, Pin Code-841214
12. Chandraketu Prasad, Son of Late Karamchand Singh, Resident of Village- Kewal Bigha Bathan (PLI), P.O.- Shamir Nakya, P.S.- Rampur, District- Gaya, Pin Code-804403.
13. Murli Manohar, Son of Late Mahavir Prasad Yadav, Resident of Village- Porwariya-Tilwariya, P.O.- Haweli Kharagpur, P.S.- Haweli Kharagpur, District- Munger, Pin Code-811213
14. Sanjay Kumar Singh, Son of Sitaram Singh, Resident of and P.O.- Dharhar Mela, P.S.- Kararia, District- Gopalganj, Pin Code-841428.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home (Police) Department, Bihar, Patna.
2. Principal Secretary, Finance Department, Bihar Patna
3. Director General of Police, Bihar, Patna.



4. Director General of Police, Bihar Military Police, Bihar, Patna.
5. Commandant, Bihar Military Police-5, Patna.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Abhinav Srivastava, Sr. Advocate  
Mr. Shubham Priyadarshi, Advocate  
For the Respondent/s : Mr. Dhurendra Kumar, AC to GP- 5

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**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR**  
**ORAL JUDGMENT**  
**Date : 10-02-2025**

Heard Mr. Abhinav Srivastava, learned Senior Advocate for the petitioners and Mr. Dhurendra Kumar, learned Advocate for the State.

2. The petitioners, before this Court, are the constables working under the Bihar Military Police, have approached this Court on being aggrieved with the order dated 18.10.2019 issued by the Director General of Police, Military Police, Bihar, Patna whereby the representation of the petitioners filed pursuant to the order dated 26.06.2019, passed in C.W.J.C. No. 12441 of 2019, as modified by order dated 16.07.2019 came to be negated and further directed that the petitioners be extended the benefit of financial progression under the Assured Career Progression Scheme in the pay scale of Rs.3200-4900/- in place of Rs.4000-6000/-. The petitioners also sought a declaration from this Court to hold that they are entitled for payment of salary as per the Pay fixation done by the



concerned authorities on the basis of 1<sup>st</sup> Financial Progression, having been extended in their favour in the pay scale of Rs.4000-6000/- and further the benefit of financial progression as have been extended in their favour, on the basis of their merger in the matriculate/literate cadre of constables under Bihar Military Police.

3. Learned Senior Advocate for the petitioners has contended that the impugned order completely lacks the application of mind, inasmuch, as the petitioners, among other similarly situated persons, have been included into the cadre of literate constables under Bihar Military Police by a conscious decision taken by the concerned authorities to Military Police Standing Order No.74/1999 dated 05.03.1999 and, as such, the action on their part in treating the petitioners to be the members of non-matriculate cadre constables of Bihar Military Police for the purpose of extending them benefit of financial progression under the ACP scheme is clearly untenable.

4. It is further contended that, nonetheless, the present petitioners, on the basis of instructions issued by the concerned authorities, had given consent for being granted promotions against the post of *Havildars* in Bihar Military Police, no financial benefits had enured in their favour on



account of such promotion and, as such, it was a promotion in terms of rank; furthermore, at the time of granting the said promotions, the concerned respondent authorities had not made a disclosure that upon grant of said promotions against the post of *Havildars*, the present petitioners would be subjected to reduction of their salaries and accordingly the benefits extended in their favour under the Assured Career Progression Scheme while treating them to be the members of literate cadre Bihar Military Police would be withdrawn.

5. The action on the part of the concerned respondent authorities in seeking to recall the benefits of 1<sup>st</sup> Financial Progression Scheme in the pay scale of Rs.4000-6000/- to the pay scale of Rs.3200-4900/- is highly arbitrary, unreasonable, apart from violative of Articles 14, 16 and 21 of the Constitution of India.

6. Referring to the facts enumerated in the writ petition, learned Senior Advocate further contended that the identical issue to that of the petitioners has traveled to the learned Division Bench of this Court in the case of **Srikant Dubey @ Shri Kant Dubey and Others v. The State of Bihar and Others (L.P.A. No. 458 of 2021)**, wherein the similarly situated constables on being aggrieved by the order of the



learned Single Judge, had preferred the appeal, when the recoveries have been sought for from their salaries and pensionary benefits on account of wrong fixation of 1<sup>st</sup> and 2<sup>nd</sup> ACPs. The learned Division Bench while allowing the Letters Patent Appeal directed the concerned respondents to refund the recovered amounts, if any, to the respective appellants within a period of three months and also directed to restore the pay-fixation in the light of the fact that the appellants are entitled to 1<sup>st</sup> ACP in the year 2002-2003. It was further directed to proceed to re-fix their pay scale and pension and upon calculation of the difference of amount disburse the same within a period of four months.

7. For proper appreciation of the matter, this Court deems it apt to encapsulate the relevant paragraphs of the judgment/order dated 26.04.2024 of the learned Division Bench passed in L.P.A. No. 458 of 2021.

“6. The appellants were appointed as Writer Constables during the period from 1986-1993. Pursuant to ACP Scheme, they have been extended 1<sup>st</sup> ACP benefit in the year 2002-2003 with reference to Assistant Sub Inspector cadre, which is promotional cadre to the Writer Constables. Thereafter, policy decision of the department was introduced insofar as seeking option from the Writer Constables and Ordinary Constables to the extent whether Writer



Constable intends to opt for Ordinary Constable or Ordinary Constable intends to opt Writer Constable subject to the fulfillment of qualification of Matriculation. The appellants have not exercised their option, resultantly, they would be treated as Ordinary Constables.

7. It is to be noted that the aforementioned policy decision of asking the Writer Constable and Ordinary Constable to opt for a particular category in the year 2004 was subsequent to the grant of 1<sup>st</sup> ACP in the year 2002-2003. In other words, with reference to status of the appellants that they were in the cadre of Writer Constable, their names have been considered for the purpose of granting 1<sup>st</sup> ACP with reference to Assistant Sub Inspector cadre (promotional cadre) from the post of Writer Constable. At this stage, it is necessary to reproduce paragraph- 661 of the Bihar Police Manual 1978 and it reads as under:

“661. (a) Classes of Constables.-

Constables shall be distinguished as (i) Writer Constables, and (ii) Ordinary Constables. Those constables who are at least matriculates and have qualified at the competitive examination for promotion to the rank of Assistant Sub-Inspector as per rule 685 shall be known as Writer Constables whose duties will solely be those of a station writer at police-stations and will not be given



out door work. He will perform office duties and conduct routine business of the police-station in the absence of the Sub-Inspectors and Assistant Sub- Inspectors for which he shall get an allowance of at least Rs.7 per month.

The strength of such posts in a district for allowance shall be equal to the number of police-stations in a district plus leave and training reserve. Certain number of posts are sanctioned for Criminal Investigation Department and Intelligence Department also for office duties.

(b) By whom appointed- Constables shall be appointed by district Superintendent of Police for which a list will be prepared by the selection Board duly constituted for the purpose.

(c) No direct recruitment shall be made in Railways, Criminal Investigation Department, Intelligence Department and in the ranks of experts such as motor drivers and armourers (For the period of probation, see Rule 668).”

8. Reading of the aforementioned paragraph-661 read with the fact that the appellants were appointed in the year 1986-1993 with Matriculation qualification and they deemed to be Writer Constable in the light of the aforementioned provisions. Therefore, it is not



appropriate for the official respondents to withdraw the 1<sup>st</sup> ACP granted in the year 2002-2003 in the light of later policy decision in the year 2004 insofar as seeking option to Writer Constable or Ordinary Constable. In other words as on 2002-2003, the appellants have fulfilled relevant criteria for the purpose of claiming ACP benefit and it was already granted. Therefore, irrespective of exercising option by the appellants either to Writer or Ordinary Constable and they may be retained in the Ordinary Constable in not exercising option with reference to the year 2004 that would not be hurdle insofar as extending 1<sup>st</sup> ACP benefit in the year 2002-2003. These material information have not been taken note of by the learned Single Judge while deciding the appellants' writ petition.

9. In the light of the decision of the Hon'ble Supreme Court in the case of **Amresh Kumar Singh & Ors. vs. The State of Bihar & Ors.**, reported in **2023(2) PLJR (SC) 423**, for claiming ACP benefit, employee need not fulfill the eligibility criteria for promotion to the next higher cadre. In other words, if an employee is stagnated in a particular cadre for 12 and 24 years. Therefore, the official respondents insisting that appellants have not passed certain prescribed examination for promotion would not be a hurdle. Further, we have noticed that from the year 1993 to 2003, the official respondents



have not undertaken to conduct departmental examination so as to enable the appellants and similarly situated persons to participate in the process of departmental examination and get eligibility. Therefore, there is fault on the part of the official respondents in not conducting departmental examination timely. Acquisition of qualification like pass in departmental examination by the Appellants was beyond their control. This issue would not be hurdle for the purpose of extending 1<sup>st</sup> ACP to the appellants in the light of the cited decision.

10. In view of the above circumstances, the appellants have made out a case. Accordingly, the present L.P.A. stands allowed. The orders of the learned Single Judge dated 16.04.2021 passed in C.W.J.C. No.6910 of 2020 and analogous cases stands set aside and C.W.J.C. No.1744 of 2020 filed by the appellants are allowed.”

8. At this juncture, learned Advocate for the State submitted that the case of the petitioners are required to be considered in the light of the decision of the learned Division Bench of this Court and if the respondent authorities shall find that the case of the petitioners is at par with the appellants of the aforementioned L.P.A. No. 458 of 2021, similar relief shall be granted to them.



9. Having heard the submissions advanced on behalf of the respective parties and taking note of the facts that the case of the petitioners, prima facie, is based on parity, this Court directs the respondent nos. 3 to consider the claim of the petitioners and on being found favour, extend the benefit of admissible pay scale in the light of the decisions rendered by the learned Division Bench of this Court in L.P.A. No. 458 of 2021 preferably within a period of eight weeks from the date of receipt/production of a copy of this order, in accordance with law.

10. The writ petition stand allowed to the extent indicated above.

**(Harish Kumar, J)**

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